

Following immediately below are the unprepared, unwritten comments from testimony I provided today, reconstructed as best I could from memory. And, following these comments, are written comments from which I read during today's hearing.

Thank you, Representative Byrum, and everyone here, for listening to my story. I don't believe my experience is an isolated one, or an exception, because I've had the same experience with the same company 12 years ago.

First, though, in the interest of full disclosure, you should probably know that I'm kind of a "bad-news bear." In 1982, while proceeding on a green light, I was broadsided by a driver who'd run a red light. That incident led to about 5 surgeries to repair my left wrist. But I'm a writer, and I can report that the hand works pretty well. Then, just a few weeks after my "last" wrist surgery in 1985, I was involved in a chain-reaction accident in North Carolina. I injured my shoulder, requiring three subsequent surgeries. And, then, in 2004, I was rear-ended while stopped for a red light. My brothers tell me I should I drive around until I see yellow light. Now, I can't even do that, because I no longer have a car, as I can no longer afford one, due to my insurance company's denial of benefits.

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This company's denial of my medical claims from MVA injuries dates back to 1996 when I was employed as a PR manager and staff writer for the former Lansing General Hospital. Occasionally, I required treatment for my right shoulder. During one office visit the physician noted that I was under a lot of stress, and he was right; the hospital was experiencing cut-backs, and I was responsible for announcing layoffs of management staff and other employees. With this notation, my insurance company decided – after 10 years of medical treatment for the MVA injury, 10 years after that MVA, and four years after the last of 3 separate surgeries – that my shoulder injury and medical treatment was a result of ... stress. Having been raised in an insurance household – my father was an insurance agent – I knew better, knew too, that "medical

for life" means "for life." Or, it's supposed to. I even asked my insurance company to reconsider their decision; the total amount involved was minimal. But they declined.

Only years later did I learn I'd been "victimized" by this company's "paper review" chain of delay and denial, whereby a physician and / or company in Minnesota rendered an opinion as to the cause of my shoulder injury, and did so without an actual physical examination, using only paper medical reports. I filed a complaint with the Insurance Commission, and State Farm was ordered to reimburse me for out-of-pocket medical expenses; the Commissioner determined they had improperly denied payment.

My complaint was never about money, but, rather, about holding the company accountable, and asking them to do the right thing.

But, today, I would like to limit my comments to a MVA in 2004. And, although the gentleman ahead of me did not wish to identify the insurance company with which he has experienced payment problems, and even though his is probably a wiser and more prudent decision, I am not the least bit reluctant to name the company responsible for the devastation they brought to me. I'm not reluctant, although it wouldn't surprise me if, somehow, I'm made to pay for my comments.

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PREPARED COMMENTS:

Just a few years ago, I was gainfully employed. I lived independent of any other financial support. I was healthy. I was confident and optimistic. My afflictions were minor (even with what I just described). I lived in the best country in the world, with the greatest system of justice conceived by man. I trusted the system. I thought most people, on the whole, did the right thing for the right reason. I thought most people were honest.

I believed common decency always prevailed ... that honesty carried the day ... that a company that held itself out to its clients as a good neighbor, really was. And then, on September 15, 2004, I stopped for a red light, the car behind me did not, and everything I'd once believed, and everything I had, no longer was.

What at first appeared to be a minor traffic accident ultimately resulted in a serious injury to my spine and severe headaches. As required by my good neighbor insurance company, I reported the incident, treated with my physician – and even I believed the injury was minor. I have a high tolerance for pain – a limit my insurance company would test beyond what's humane. Some months following the accident, the totality of my injury was revealed: the impact of the rear-end collision had caused a central prominent disk protrusion at L5/S1 with bilateral nerve impingement. In layman's terms, the impact had “cracked” the outer “shell” of my disk, which eventually gave way completely, trapping my spinal nerve on both sides – a feeling much like, I imagine, (with apologies to the men in the room today) having your most sensitive anatomy compressed in a vice. And it would remain compressed for every minute of every day for 13 months, though not necessary.

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The headaches would become a side-attraction and only be diagnosed as a mild brain injury when, finally, the serious injury to my spine was fully treated. That's often the case in MVAs when a more serious injury takes precedence over a lesser one, when one issue puts the injured person at even more serious health risk, as was my case.

When I reported the deterioration of my health and my inability to even stand or sit without pain, and my inability to initially undertake physical therapy in attempts to avoid surgery, my insurance company began paying allowable PIP benefits – wage-loss, medical, and even some household replacement services to assist me in my job as a self-employed writer.

But, despite my efforts and the efforts of a highly-qualified medical team, conservative treatment measures failed. No matter: I still tried to work – lying down on a couch, with my laptop propped on a pillow ... standing at a raised table, alternating which leg I would prop to alleviate my pain ... even while taking prescribed narcotic pain medications and muscle relaxants. I tried it all. Whatever my physicians suggested, I did. I missed my life. I missed life. And I know how precious it is: I've already lost two brothers prematurely.

I value all the time I have. I treasure every day, the hours and the minutes. I know how quickly it can be taken from us. I did not know, however, that it could or would be taken from me by a good neighbor, by a company that professes to care for its customers, in an industry whose representatives tell us that millions of people are “happy” with their insurers and those who are not happy are “unjustified” in their position.

I am not unjustified in my position. State Farm was unjustified in its, however, after first paying PIP benefits, then delaying them 8 months after my accident and, eventually, denying them altogether. My claims adjuster said she never received my communications, that she'd lost them, or that she needed additional documentation. Over and over and over again. This adjuster even questioned the validity of my doctors' letters, calling my doctor to verify that she had written the letters to State Farm. This adjuster requested one physician to write the same letter three times, attesting to my disability. And, then, when doctors determined spine surgery was the only medical remedy available to me, I heard *nothing* from my insurance company. I had no income, no wage-loss, no coverage for what my medical insurance did not cover. And, because the surgery being recommended was not covered by Blue Cross, I had no way out of my declining health and deteriorating life.

Finally, I contacted an attorney. Only then, a full 16 months after my accident, did my good neighbor order the misnomer of misnomers – an Independent Medical Exam, and sent me to a knee surgeon in Grand Rapids because, I suppose, there are no spine surgeons near my home, for an evaluation of my condition. My spine condition. And this physician, who draws thousands of dollars for such IMEs, after looking at my MRI and radiology reports, after looking at medical reports from my treating physician, and after looking at me for all of about 10 minutes, said ... I had no injury; there was no damaged disk; I had achieved as much recovery as was possible; and, too, the “injury,” which he had just denied, was not caused by the 9.15.04 MVA. Incredible as that seemed, State Farm believed it, and why not? It could. Because, no matter what laws the insurance industry says are there to protect people like me, they carry no weight. And so, here is what a mistake looks like, which another industry spokesperson says happens sometimes.

“Mistakes sometimes happen,” she says.

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My name is Chris Henning. I am not a mistake.

- But here's what the sometimes-happening mistake looks like: From the day State Farm refused my phone calls and discontinued all benefits in early October 2005 ... from the moment they began delaying any response ... and, eventually denying payment, and until I was able to obtain surgery for my spine injury ... from the coinciding time that they received notice that only surgery would “fix” my back injury, I consumed, ingested, was required to take over the course of the next 7-plus months, approximately 2,400 narcotic pain medications, muscle relaxants and nerve channel blockers. Required to take. That did not include the other prescribed pain medications I was advised to take when the pain became unmanageable. Nor did that include the additional medicines prescribed for other conditions arising out of the delay in treatment.

That did not include the injections of morphine and dilaudid in local emergency departments when prescribed pain medications did not touch the nerve pain I felt. It did not include over-the-counter medications that I tried first. 2,400 pills. 7 months. Over 300 pills a month. No fewer than 10 every day.

And still, I wanted so badly to believe that yes, this was just a mistake, and surely someone would notice, and surely someone would do what was right.

- Here's what your mistake looks like: I could not sit up without pain. I could not sleep at night. I tried to sleep on the couch, the only place I could prop myself where the pain was not constant. It was 18 months before I could sit down to eat a meal without getting up to achieve some measure of relief. When I had a doctor's appointment, I wouldn't take my medication the night before so I could make the drive safely that day. I endured more pain at night so I could, then, endure more.

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- Here's what this mistake looks like, here's one unhappy customer, this unjustified complaint: Despite my pleas for help from my good neighbor insurance company, despite my request they contact any of the 10-plus physicians who had been treating me since the injury, despite my asking them to make these contacts to verify my injury was, indeed, a result of the MVA and to confirm the need for recommended surgery, they chose not to. Instead, they opted to believe a knee surgeon, an "independent" physician who did not perform spine surgery, who was not even aware of the available spine surgery, and who specialized in "Independent" Medical Exams, having received considerable training to do just that, and who was paid by State Farm to render this opinion.

- Here's your mistake: The home I've lived in and have been paying monthly mortgage payments on since 1983 came into foreclosure. Clinton County, the State of Michigan, and the IRS each filed tax liens on my home. And then, during this same period of delay and denial, State Farm sent an inspector out to St. Johns who determined I needed a new roof, that my relatively recent vinyl-sided house had "wood rot," and that my homeowner's insurance would be canceled, if I didn't make these necessary repairs. Here's how a mistake goes from bad to worse: when I asked State Farm for a loan to repair my roof, guess what? They said I didn't qualify because ... I didn't have any income.

My credit score plummeted. My clients, most of which had provided for an income averaging \$72,000 annually since 1996, hired full-time writers or outsourced their writing projects to other writers, and I had no means of income any more. I lay at home, now at risk for paralysis, because of the location of my herniated disk. I soon had blood in my urine. I developed hemorrhoids from the amount of medications I was taking. One day, I recall lying on my physician's exam table as she prepared to lance hemorrhoids caused from these medications that became necessary as a result of State Farm's denial. My doctor asked me if, first, I would like an injection of an anesthetic to numb the pain. "No," I said, "there's no more pain left to feel, nothing worse than what I've already got. Besides," I told her, "I'm not really injured, remember? State Farm says so, right?"

- Here's what this mistake looks like, here's why we're here today – because if not for people like me, you'd all have something better to do: And here's the kicker: My father left a job at a local factory in St. Johns after 19 years to become an insurance agent with this same company and, then, retired in 1992 after 26 years as a true good neighbor agent. My agent professed to be "just like my dad." But that wasn't true either. Because my agent said his hands were tied. My father's hands were never tied. He wouldn't allow it.

And so, when my father was 72 years-old, and I was rear-ended by a young driver and then run over and over and over again by the same company that had once put food on my family's table, my father kept working at a car-wash, even though he wanted to quit, so that he could put food on mine. I was 48, once capable of earning my own keep, but State Farm put my father back at the head of my household. Without him, there would have been no groceries in my house. And then, he cashed in my mother's \$3,500 life insurance policy so I wouldn't lose my home, at least for another couple of months. That's how the State Farm family treats its own.

- Mistake? In early 2006, my primary care physician, with all supporting medical documentation, wrote a letter on my behalf to the State Insurance Commissioner, pleading for intervention, citing, among other risks to my health as a result of delay in treatment, paralysis and addiction to narcotic pain medication. The Insurance Commission, in an industry where one spokesperson says there aren't that many complaints or, after all, insurance companies would go out of business, actually did respond. But the Insurance Commissioner said that because I had to engage an attorney that same month to protect my benefits, they could not get involved. So much for not clogging up our court system. And, please note, it was at my attorney's suggestion that I seek help from the Insurance Commission so that we might avoid trial, so that I might get necessary medical help.

- Here's your mistake: Although I've always thought international travel would be interesting, I also thought there are enough places and things close-by that I haven't seen, and enough nearby yet to discover, for me to leave home and go abroad to see something so foreign. But even while I was losing faith in ever again being healthy, I discovered that I could obtain spine surgery in Germany at a fraction of the cost of what it would be here in the United States. It was then that I was blessed by truly caring people, outside of the insurance industry, when one member of a writing organization I've belonged to since 1992, sent out an unsolicited e-mail to other members about my circumstances. Less than a month later, more than \$20,000 was turned over to me, enough to schedule the surgical procedure in Germany and book a flight there.

But, mistakes happen, and they kept happening, even though the law in Michigan says that a person injured in an automobile accident will receive prompt and proper medical treatment ... for life. My life depended on receiving medical treatment, but State Farm did everything in its power to deny me that. The law, as it stands now, is nothing but an empty promise.

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And so the mistake plays out over and over. I was happy thinking about all the things near my home I had yet to discover, but I had to leave my home and my country to obtain what the law, and my insurance company, professed as a promise to me. But I was only able to do so by virtue of the money donated by other Michigan drivers whose premiums ensure that companies will never go out of business because auto insurance is mandatory ... drivers who also presume they will be covered in the event of an automobile accident.

- Here's your mistake: The insurance industry turned me into a charity case ... in a state that enacted no-fault insurance laws to prevent such situations and to keep us out of court. I had to take my case to court, despite well-conceived laws intended to avoid what some say are "frivolous" suits. Here's the mistake: There is nothing frivolous about my life, my health, the injury I sustained, or what was taken from me by State Farm Insurance.
- Here's what a mistake looks like: I returned from Germany not needing anything except Ibuprofen in the short-term to manage pain, and, only occasionally, prescription medication as I increased my activity. Today, I no longer require narcotics. Nor was I taking narcotics three weeks after I returned from Germany, just 5 weeks from surgery, when State Farm deposed me – for five-and-a-half hours. State Farm had not yet paid for any medical treatment since their denial, but they could afford to pay attorneys. Still, the facts of the case, the truth of my injury, hadn't changed from that day in September in 2004. Only the incredulous and unthinkable treatment of my insurance company changed, and it changed for the worse.
- Here's unjustified; here's a mistake: No longer on medication, my headaches returned, persisted, and increased. Pain medication had been masking symptoms for almost two years. And, then, even as my physicians were treating those headaches and diagnosing a mild traumatic brain injury from the auto accident, the mistake went to trial in November 2007. State Farm's attorneys, who get paid whether they win or lose, and whose income derives, most likely, from citizens' insurance premiums, opened by calling me a liar, cheat and fraud. Their IME physician, the knee surgeon, you'll remember, stated under oath that no one, ever, can injure their lower back in a rear-end collision. Ever. Under oath. State Farm bought and paid for that testimony. The jury did not, and found in my favor.

Although it was a “win,” here’s what that win allowed: 40% of the proceeds went to my attorney, who earned every penny. The interest State Farm paid me did not cover the interest I paid my family and friends whose credit card loans sustained me during the prior two years. I was still on the hook for more than \$5,000 in medical expenses, and I continue to accrue medical bills because, after all, our law includes a provision for one-year tolling, and unpaid bills I wasn’t even aware existed continue to arrive. The past-due wage-loss awarded to me approximated half of what I would have actually earned, if not for State Farm’s delays and denials. Nothing of the award covered the late fees on my home or auto loans or payment to other creditors. Nothing about the settlement got me out of the hole. Nothing made me whole, as Michigan No-Fault Law promises.

- Here’s the mistake compounded: As is often the case, the most serious injury is the one most attended, and my headaches became a concern of my physicians once pain medication was no longer part of my daily diet. The headaches that resulted immediately at impact in the accident, showed up again, and with my return to work, I also noticed problems in cognition and speech and word finding – things a writer, in particular, will notice. I had trouble organizing my work and woke most nights with headaches.

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These problems were apparent to people who knew me, but not of the major head trauma category. I passed standard tests with flying colors; more precise tests revealed my deficits. State Farm denies the results of these tests, denies the results of 6 months of occupational therapy, denies the treatment prescribed by physicians out of their wallet’s reach. I’m most pleased that I’ve achieved remarkable results, although some problems remain. I just don’t choose to make an issue of them, because –well, what’s the point? The improvement that resulted is even objective. It’s measurable. And it is demonstrated on pre-treatment and post-treatment performance tests.

But, mistakes being as they are, State Farm says, “uh-uh.” State Farm says, “We don’t believe you.” And the reason they don’t believe me is – what else? Their IME physicians say so. Why not? It wasn’t until this past February, three-and-a-half years after the accident, and a year after I was discharged from therapy, a year after I had successfully achieved good, measurable results, that they sent me for these evaluations. Of course the deficits won’t turn up now. Of course.

So now I have a few thousand more dollars in medical bills to pay, and I’ve not yet caught up to the others, not yet found myself “even” from an auto accident almost five years ago.

The cost beyond dollars-and-cents is immeasurable, but State Farm has already spent multiple thousands for 4 post-recovery IMEs. They pay cab fare each time I’m required to attend these exams – about \$500 each time, to physicians beyond the county and region in which I live, at my expense of time, for conclusions that are foregone. Or, maybe, I’m mistaken there, too.

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- These mistakes seem practically unbelievable to me. I’m a writer with a fairly decent imagination, but even I wouldn’t attempt to write a story like this because people would say, INCREDIBLE. UNBELIEVABLE. GET REAL.

Here’s my reality: On Tuesday morning of this week, I was reading *The Lansing State Journal* as I waited for another taxi to take me to another IME, this one in Royal Oak, this one for a one-and-a-half-hour eye exam. It was only then that I first learned about these hearings. The irony couldn’t be richer.

More to the irony, though, is that this latest State Farm-paid physician had none of my medical records in hand. Nor did he apparently even know I had a back injury, or that I had undergone back surgery. The pending results won't surprise me. Denial is common in my vocabulary now. It was no surprise, either, then, that mid-way through the exam, as I sat on a rolling stool with my face against a machine this doctor would use to measure something or another, he reached over and pulled on the lever to lower my position, without giving me notice, without warning me what he was about to do. Just another mistake, I suppose.

The stool dropped several inches to the floor. I have a \$28,000 titanium implant in my lower back. I intentionally avoid such jolts to it. But I felt this one. It reminded me, in one sense, of all the jolts State Farm delivers, and continues to deliver, knocking me from what semblance of normal I've tried to reconstruct from the damage they have caused.

I now have ulcers I will have to treat with medication for the rest of my life, caused by the 2,400 pills I took over the course of the 7 months when my body was broken and I was broke. I've since been diagnosed with PTSD and an anxiety disorder. Why don't I find that surprising?

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And so, which of you here today don't think this legislation is necessary?

I did not want to go to trial. I did not want to be unwell. I did not want State Farm's money. I wanted to *get* well. I wanted to keep my clients ... keep my job ... keep my life. And State Farm took all of that, and so much more.

Do I think the suggested penalties are too stiff? Not even. And here's why:

Unless I'm mistaken, State Farm's President, Mr. Edward B. Rust, Jr., is not here today. (If he is, I apologize for not recognizing him.) But he should be. And unless I'm mistaken, he doesn't have a clue about me or who I am. But he should. He runs the company and he darned well should know who his clients, and what their experiences are.

I think Mr. Rust will care more if he knows he can be charged with a felony for his company's delay and denial of proper and justified claims for PIP benefits. I'm pretty sure he'll take notice.

There is no mistake here.

I am NOT a mistake.

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State Farm wanted me to go away in the worst kind of way. And they almost succeeded, because there were times when going away seemed a better option than staying for more pain and devastation that they kept delivering to me. But I was raised by a true good neighbor, and I was surrounded by countless others.

While I earned my own income for over a year after my physician released me, I currently have no job, no available paid writing work. And with the economy being what it is, I don't expect I will have, any time soon. I do expect, though, that in another six months or so, my home may once again go to foreclosure. I'll let it go this time, because my local bank and my family and friends and my neighbors have done more than their share, when it wasn't theirs to do. I might even expect State Farm to make me pay for being here today and giving testimony. Call it paranoia. But it's my reality, grounded in experience. I believe they will ... because they can ... because these laws some say already protect us, really don't.

I'm a writer. I know what words can do ... and what they do on paper. But words are only as good as the people behind them. And if you're worth anything, you'll put weight behind the words you're hearing this week, and make certain there are no walking, talking "mistakes" like me, trying to get back to even, and not seeing a way clear to do that.

I am not grateful to my insurance company for anything. They paid only because a jury said they had to ... they paid only what they had to ... and they are still finding ways to not pay what they should. They never "gave" me anything; they only took. And what they took, I'll never get back.

Only when all the Edward Rusts of the State get a wake-up call and feel a little pain of their own will Michigan drivers be assured that they will not get run over again ... and again ... and again ... and again ... and again.

I am not a mistake.

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My name is Chris Henning.

I walk today because I left my country. Because dozens of other citizens in Michigan thought State Farm's action were a travesty and did not want to see me lying under the State Farm bus any longer.

I am not a mistake.

Thank you.

